

JUDGE RAKOFF

08 CIV 4241

CLOSED

**U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:07-cv-05260-FB-VVP**

Quinones v. Forkins et al
Assigned to: Senior Judge Frederic Block
Referred to: Magistrate Judge Viktor V. Pohorelsky
Cause: 28:1441 Petition for Removal- Tort/Motor Vehicle (

Date Filed: 12/18/2007
Date Terminated: 05/02/2008
Jury Demand: Both
Nature of Suit: 350 Motor Vehicle
Jurisdiction: Diversity

Plaintiff

Amy Quinones

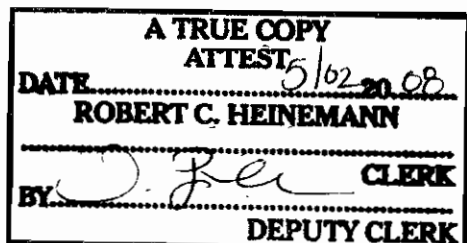
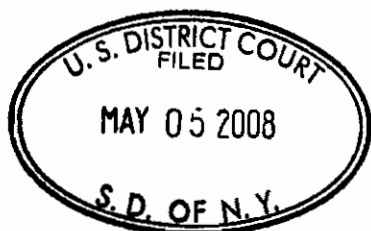
represented by **Michael David**
Michael N. David
82 Wall Street
New York, NY 10005
212-363-1997
Fax: 212-742-9869
Email: mdneglaw@aol.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Patrick Forkins

represented by **Alison D. Metzler**
Downing & Peck, P.C.
5 Hanover Square
New York, NY 10004
(212) 514-9190
Fax: (212) 514-9241
Email: alisonmetzler@mindspring.com
LEAD ATTORNEY



John M. Downing
Downing & Peck, P.C.
5 Hanover Square
20th Floor
New York, NY 10004
(212) 514-9190
Fax: (212) 514-9241

A CERTIFIED COPY BY J. MICHAEL MCMAHON, CLERK

J. MICHAEL MCMAHON, CLERK

BY DEPUTY CLERK

5/2/2008 1:30 PM









LEAD ATTORNEY
ATTORNEY TO BE NOTICED





Defendant

Blanche Forkins

represented by **Alison D. Metzler**
 (See above for address)
LEAD ATTORNEY

John M. Downing
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/18/2007	 <u>1</u>	NOTICE OF REMOVAL from the Supreme Court of the State of New York, Kings County by Patrick Forkins, Blanche Forkins (Filing fee \$ 350) (Attachments: # <u>1</u> Civil Cover Sheet) (Bowens, Priscilla) (Entered: 12/19/2007)
12/18/2007	 <u>2</u>	DISCLOSURE of Interested Parties by Patrick Forkins, Blanche Forkins. (Bowens, Priscilla) (Entered: 12/19/2007)
12/19/2007	 <u>3</u>	AFFIDAVIT of Service of Notice of Removal, filed by Patrick Forkins, Blanche Forkins. (Metzler, Alison) (Entered: 12/19/2007)
12/27/2007	 <u>4</u>	SCHEDULING ORDER: Order scheduling initial conference and deadline for automatic disclosures. Ordered by Magistrate Judge Viktor V. Pohorelsky on 12/27/07. (ATTACHMENT) (Newton, Joan) (Entered: 12/27/2007)
12/31/2007	 <u>5</u>	ANSWER to Complaint by Patrick Forkins, Blanche Forkins. (Metzler, Alison) (Entered: 12/31/2007)
01/28/2008	 <u>6</u>	MINUTE ENTRY for proceedings held before Magistrate Judge Viktor V. Pohorelsky:Initial Scheduling Conference Hearing held on 1/28/2008. See annexed conference calendar for details. (Newton, Joan) (Entered: 01/28/2008)
02/01/2008	 <u>7</u>	Letter to Honorable Frederic Block by Patrick Forkins, Blanche Forkins (Metzler, Alison) (Entered: 02/01/2008)
02/01/2008		ELECTRONIC NOTICE: Plaintiff's shall file a reply by February 5, 2008 to defendant's letter dated 1/30/08 requesting that this case be transferred to the Southern District of New York. If plaintiff consents then counsel shall file a stipulation to have this case transferred. If plaintiff does not consent, then the court will process defendant's letter as a request for a pre-motion conference and the Court will issue an ECF notice scheduling such a conference. There will be no formal notice mailed to counsel. (Innelli, Michael) (Entered: 02/01/2008)

02/14/2008	 <u>8</u>	ELECTRONIC NOTICE: Since plaintiff has failure to respond to the Courts electronic notice of 2/1/08 requesting a reply to defendant's letter dated 2/1/08 seeking a transfer of this case to the SDNY. A pre motion conference is schedule for March 28, 2008 @ 11AM. There will be no formal notice mailed to counsel. Upon receipt of this email counsel shall confirm with each other the date and time of this conference. If this date presents a conflict counsel shall first obtain the consent from all the parties to adjourn this conference, and then notify the Court which conducts these conference on Fridays at 11AM. (Innelli, Michael) (Entered: 02/14/2008)
03/28/2008	 <u>9</u>	Minute Entry for proceedings held before Senior Judge Frederic Block:Pre Motion Conference held on 3/28/2008. Case called. All counsel present. Pltff's counsel will submit stipulation as to transfer of venue to SDNY. Counsel is encouraged to continue to talk settlement. (Abdallah, Fida) (Entered: 04/04/2008)
05/02/2008	 <u>10</u>	ORDER: Case transferred to District of New York - Southern. Original file, certified copy of transfer order, and docket sheet sent. Ordered by Senior Judge Frederic Block on 5/1/2008. (Lee, Tiffeny) (Entered: 05/02/2008)
05/02/2008	 <u>11</u>	AFFIDAVIT of Service - Case File to SDNY. (Attachments: # <u>1</u> FedEx Tracking No. 861943299540) (Lee, Tiffeny) (Entered: 05/02/2008)

JDJ/mh
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
AMY QUINONES,

Plaintiff,

-against-

PATRICK FORKINS and
BLANCHE FORKINS,

Defendants.
-----X

**NOTICE OF
REMOVAL**

CV 07 5260

BLOCK, J.

Supreme Court,
Kings County

POHORELSKY, M.J.

Index No.:
43236/07

BY **CLERK**
U.S. DISTRICT COURT E.D.N.Y.

★ DEC 18 2007

BROOKLYN OFFICE

S I R S :

PLEASE TAKE NOTICE, that the within is a true copy of a
Notice of Removal filed in the above named Court.

1. This action is being removed from Supreme Court,
Kings County to the United States District Court for the
Eastern District of New York.

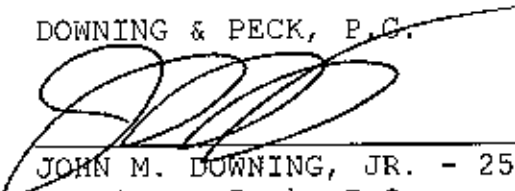
2. The basis for removal is 28 U.S.C. §1441(b).

3. The Court has original jurisdiction pursuant to 28
U.S.C. §1332(a) in that the plaintiff, AMY QUINONES, resides
at 275 Country Club Lane, Pomona, New York 10970 and is a
citizen of New York; and defendants, PATRICK FORKINS and
BLANCHE FORKINS, reside at 250 Orchard Drive Mahwah, New
Jersey 07430 and are citizens of New Jersey; and the matter in
controversy exceeds the sum or value of \$75,000.00 exclusive
of interest and costs.

Dated: New York, New York
December 14, 2007

DOWNING & PECK, P.C.

BY:



JOHN M. DOWNING, JR. - 2518
Downing & Peck, P.C.
Attorneys for Defendants
5 Hanover Square - 20th Floor
New York, New York 10007
212-514-9190
File #: 3.1162

TO: MICHAEL N. DAVID
Attorney for Plaintiff
82 Wall Street
New York, New York 10005
212-363-1997

CIVIL COVER SHEET

JS 44 (Rev. 1/1/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the Federal Rules of Civil Procedure, as amended, or by the local rules of court. This form, approved by the Judicial Conference of the United States in September 1993, is to be filed with the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Amy Quinones 275 Country Club Lane Pomona, New York 10970 (b) County of Residence of First Listed Plaintiff <u>Rockland County, NY</u> (EXCEPT IN U.S. PLAINTIFF CASES) BLOCK, J. POHORELSKY, M.J. (c) Attorney's (Firm Name, Address, and Telephone Number) Michael N. David, 82 Wall Street New York, New York 10005, 212-363-1997	DEFENDANTS Patrick Forkina & Blanche Forkins 250 Orchard Drive Mahwah, New Jersey 07430 County of Residence of First Listed Defendant <u>Bergen County, N.J.</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. U.S. DISTRICT COURT E.D.N.Y. Attorneys (If Known) Downing & Peck, P.C. DEC 18 2007 New York, New York 10004, 212-514-9190 BROOKLYN OFFICE
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"> <tr> <td style="width: 50%;"> Citizen of This State <input checked="" type="checkbox"/> 1 Citizen of Another State <input type="checkbox"/> 2 Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 </td> <td style="width: 50%;"> PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6 </td> </tr> </table>	Citizen of This State <input checked="" type="checkbox"/> 1 Citizen of Another State <input type="checkbox"/> 2 Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6
Citizen of This State <input checked="" type="checkbox"/> 1 Citizen of Another State <input type="checkbox"/> 2 Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 3 Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6		

IV. NATURE OF SUIT (Place an "X" in One Box Only) CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395b) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
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V. ORIGIN (Place an "X" in One Box Only) <input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity): <u>28 U.S.C. 1332 & 28 U.S.C. 1441</u>
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VI. CAUSE OF ACTION Brief description of cause: <u>Action for money claims for personal injuries; negligence</u>	CHECK IF THIS IS A CLASS ACTION DEMAND \$ <input type="checkbox"/> UNDER F.R.C.P. 23 <u>More than \$75,000.00</u>
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VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY (See instructions): <u>JUDGE</u>	DOCKET NUMBER
--	---------------

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

 RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE FB MAG. JUDGE VVP

07cv5260

ARBITRATION CERTIFICATION

I, _____, counsel for _____ do hereby certify pursuant to the Local Arbitration Rule 83.10 that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of \$150,000 exclusive of interest and costs. _____ Relief other than monetary damages is sought.

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

Please refer to NY-E Division of Business Rule 50.1(d)(2)

1.) Is the civil action being filed in the Eastern District of New York removed from a New York State court located in Nassau or Suffolk County? NO

2.) If you answered "no" above:

a.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? NO

b.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? NO

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? NO

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes X

No _____

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

Yes _____ (If yes, please explain)

No X

Please provide your E-MAIL Address and bar code below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court.

(This information must be provided pursuant to local rule 11.1(b) of the civil rules).

ATTORNEY BAR CODE: 2518

E-MAIL Address: downingj@aol.com DowningJR@AOL.Com

I consent to the use of electronic filing procedures adopted by the Court in Administrative Order No. 97-12, "In re Electronic Filing Procedures(EFP)", and consent to the electronic service of all papers.

Signature: 

JDJ/mh
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
AMY QUINONES,

Plaintiff,

**RULE 7.1
STATEMENT**

CV 07 5260

-against-

PATRICK FORKINS
and BLANCHE FORKINS,

BLOCK, J.

POHORELSKY, M.J.
Defendants

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEC 18 2007

-----X
BROOKLYN OFFICE

Pursuant to Rule 7.1 FRCP, defendants, PATRICK FORKINS and BLANCHE FORKINS, identify the following parent corporation and any publicly held corporation that owns 10% or more of its stock:

The defendants are not corporate parties subject to the requirements of Rule 7.1. They are individuals, sued in their capacity as individuals only..

Dated: New York, New York
December 14, 2007

DOWNING & PECK, P.C.

BY: 

JOHN M. DOWNING, JR. - 2518
Downing & Peck, P.C.
Attorneys for Defendants
5 Hanover Square - 20th Floor
New York, New York 10007
212-514-9190
File #: 3.1162

TO: MICHAEL N. DAVID
Attorney for Plaintiff
82 Wall Street
New York, New York 10005
212-363-1997

JDJ/mh

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
AMY QUINONES,

AFFIDAVIT OF
SERVICE

Plaintiff,

07-CV-5260

-against-

PATRICK FORKINS and
BLANCHE FORKINS,

Defendants.

-----X

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

MEGHAN HOOD, being duly sworn, deposes and says: I am not a party of this action, I am over 18 years of age, and I reside in Staten Island, New York.

That on December 19, 2007, deponent personally served a copy of the **NOTICE OF REMOVAL** upon:

TO: MICHAEL N. DAVID	Attention: Clerk of the Court
Attorney for Plaintiff	Supreme Court, Kings County
82 Wall Street	360 Adams Street
New York, New York 10005	Brooklyn, New York 11201
212-363-1997	

by depositing a true copy of same in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

_____/s/
MEGHAN HOOD

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

On the 19th day of December in the year 2007 before me, the undersigned, a Notary Public in and for said State, personally appeared MEGHAN HOOD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____/s/
Notary Public

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
AMY QUINONES,

Plaintiff,

ORDER

CV 07-5260 (FB)(VVP)

- against -

PATRICK FORKINS, et al.,

Defendants.
-----X

An initial conference will be held in this case on **January 28, 2008 at 10:00 a.m.** before Viktor V. Pohorelsky, United States Magistrate Judge. All participants are directed to report to Courtroom 13A of the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York. All counsel must be present.

All requests for adjournments must be made in writing on notice to opposing parties. No request for adjournment will be considered unless made at least forty-eight (48) hours before the scheduled conference. Requests must disclose whether or not all parties consent to the adjournment.

The parties are reminded of their obligations under Rule 26(f) of The Federal Rules of Civil Procedure, and all parties are directed to make the disclosures required by Rule 26(a)(1) of the Federal Rules of Civil Procedure no later than ***five days before*** the above scheduled conference.

Failure to make the required disclosures may result in the imposition of sanctions pursuant to Rule 37(b) of the Federal Rules of Civil Procedure.

SO ORDERED.

Viktor V. Pohorelsky

VIKTOR V. POHORELSKY

United States Magistrate Judge

Dated: Brooklyn, New York
December 27, 2007

NOTE: DEFENDANT'S COUNSEL IS DIRECTED TO CONFIRM WITH ALL OTHER ADVERSARIES THAT ALL NECESSARY PARTIES ARE AWARE OF THIS CONFERENCE.

JDJ/mh

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
AMY QUINONES,

Plaintiff,

-against-

PATRICK FORKINS
and BLANCHE FORKINS,

Defendants
-----X

ECF CASE

VERIFIED
ANSWER

O7-CV-5260

**DEFENDANTS DEMAND
TRIAL BY JURY**

Defendants, PATRICK FORKINS and and BLANCHE FORKINS, by
their attorneys, DOWNING & PECK, P.C., answering the verified
complaint herein, respectfully sets forth and alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. Deny knowledge and information sufficient to form a belief as to each and every allegation contained in paragraphs 1 and 10 of said complaint, and refers all questions of law to the Court.
2. Admit each and every allegation contained in paragraphs 2 and 3 of said complaint.
3. Deny knowledge and information sufficient to form a belief as to each and every allegation contained in paragraphs 4, 5, 6, and 7 of said complaint.
4. Deny each and every allegation contained in paragraphs 8, 9, 11, 12, and 13 of said complaint.

AS AND FOR A SECOND CAUSE OF ACTION

5. Repeat and reiterates each and every denial and response to the allegations set forth in paragraphs 1 through of the Complaint with the same force and effect as if set forth at length herein.
6. Deny knowledge and information sufficient to form a belief as to each and every allegation contained in paragraph 15 of said complaint.
7. Deny each and every allegation contained in paragraph 16 of said complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. The Court lacks personal jurisdiction over the defendant due to improper service of process.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

9. The venue chosen by plaintiff's is incorrect.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

10. Plaintiffs have not sustained a serious injury. as defined by the New York State Insurance Law and, therefore, is barred from recovery herein

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

11. That the aforesaid motor vehicle in which plaintiffs were passengers at the time of the accident alleged in the plaintiffs' complaint was equipped with seat belts and the plaintiffs, through their own carelessness, neglect and fault, failed to avail themselves of said seat belts and failed to

use same to protect themselves from injury. If plaintiffs had made use of the seat belts provided for their protection, they would not have sustained any injuries or their injuries would have been less severe.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

12. The plaintiff's damages must be reduced in accordance with the comparative negligence of plaintiff.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

13. Plaintiff failed to name a necessary party.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

14. Plaintiff failed to mitigate damages.

WHEREFORE, the answering defendant demands judgment dismissing the complaint herein, together with the costs and disbursements of this action.

Dated: New York, New York
December 26, 2007

DOWNING & PECK, P.C.

BY: /s/
JOHN M. DOWNING, JR. - 2518
Downing & Peck, P.C.
Attorneys for Defendants
5 Hanover Square - 20th Floor
New York, New York 10007
212-514-9190
File #: 3.1162

TO: MICHAEL N. DAVID
Attorney for Plaintiff
82 Wall Street
New York, New York 10005
212-363-1997

VERIFICATION

STATE OF NEW YORK)

COUNTY OF NEW YORK) ss.:

I, the undersigned, an attorney duly admitted to practice in the courts of New York State, state that I am JOHN M. DOWNING, JR., attorney of record for defendants, PATRICK FORKINS and and BLANCHE FORKINS, in the within action; I have read the foregoing ANSWER and know the contents thereof; the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by said defendant is because said defendant is not presently in the County of New York wherein I maintain my office.

The grounds for my belief as to all matters not stated upon my own knowledge are as follows: Investigations, reports, etc.

Dated: New York, New York
December 26, 2007

_____/s/
JOHN M. DOWNING, JR. - 2518

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
AMY QUINONES,

Plaintiff,

- v -

PATRICK FORKINS, et al.,

Defendants.
-----X

SCHEDULING ORDER

CV-07-5620 (FB)(VVP)

APPEARANCES:

Plaintiff: Michael N. David, Esq.
Defendant: John Downing, Esq.

The above numbered matter having been referred to the undersigned for pretrial supervision and the preparation of the scheduling order required by Rule 16(b) of the Federal Rules of Civil Procedure, and a scheduling conference having been held with the parties, the following schedule is hereby established:

1. FACTUAL DISCOVERY

- a) Initial disclosures required by Rule 26(a)(1) have been made;
- b) All discovery of factual matters is to be completed by July 31, 2008;
- c) No requests for admissions, document requests or interrogatories may be propounded after June 20, 2008;
- d) The above deadlines will not be extended unless the party seeking the extension makes a compelling showing that discovery could not be completed because of unforeseeable circumstances beyond that party's control.

2. EXPERT DISCOVERY

- a) Any party that will seek to introduce expert testimony in its case-in-chief shall identify each expert by name and area of expertise no later than June 15, 2008;
- b) All disclosures required by Rule 26(a)(2) with respect to case-in-chief experts shall be provided by July 31, 2008 (such disclosures are not required for treating

physicians and other providers of medical or psychotherapeutic services who were retained without a referral from counsel and who will be called to testify solely about their diagnoses and treatment);

- c) As to experts who will be called solely to rebut expert testimony offered by other parties, all disclosures required by Rule 26(a)(2) shall be provided by August 31, 2008;
- d) Depositions of experts may be taken at any time provided they are completed at least 30 days before trial.

3. MOTIONS

- a) Motions to compel discovery or to resolve other non-dispositive pretrial disputes shall be made by letter in accordance with Local Civil Rule 37.3. No such motion will be entertained without a written certification that counsel have attempted to confer in good faith either by telephone or in person in an effort to resolve the dispute. **All such motions shall be made promptly after the dispute has arisen and no later than ten days after the expiration of the factual discovery deadline;**
- b) Motions to join new parties are not contemplated;
- c) Motions to amend pleadings to add claims or defenses shall be filed by April 30, 2008;
- d) The deadline for requesting a premotion conference for making dispositive motions is August 21, 2008. Any such motions shall be addressed to, and shall be made in accordance with the individual rules of practice of, the judge to whom the case is then assigned for trial.

4. CONFERENCES AND OTHER MATTERS

- a) A status conference will be held by telephone on **May 2, 2008 at 2:15 p.m.**, to be initiated by counsel for the plaintiff (Chambers: 718-613-2400);
- b) A pretrial conference will be held before the undersigned on **September 5, 2008 at 10:00 a.m.** A pretrial order, signed by counsel for all parties, shall be presented to the court at the pretrial conference. The pretrial order must comply with the requirements of the trial judge then assigned to the case;
- c) The pretrial order shall be prepared as follows: not later than 20 calendar days before the pretrial conference, the plaintiff shall serve a working draft of the pretrial order on all parties; not later than 10 calendar days before the pretrial

conference, all other parties shall serve working counter-drafts of the pretrial order on all parties; not later than 3 calendar days before the pretrial conference all parties shall meet and confer at the office of plaintiff's counsel to complete the final pretrial order;

- d) As meaningful settlement discussions will occur at the above-scheduled pretrial conference, clients or other persons with full settlement authority must be available by telephone.

SO ORDERED:

Viktor V. Pohorelsky

VIKTOR V. POHORELSKY

United States Magistrate Judge

Dated: Brooklyn, New York
January 28, 2008

January 30, 2008

Honorable Frederic Block
United District Court
225 Cadmen Plaza
East Brook, New York 11201

**Re: Amy Quinones v.
Patrick Forkins and Blanche Forkins
CV#: 075260
Our File #: 31162
D/Accident: 7/18/07**

Dear Honorable Sir:

We represent the defendants herein.

The action arises out of a two-vehicle accident of July 18, 2007 in Clarkstown, Rockland County, New York.

Plaintiff Amy Quinones resides in Pomona, Rockland County, New York. Defendants reside in Mahwah, Bergen County, New Jersey.

Enclosed please find a copy of the police report and summons and complaint herein.

The action was removed by defendants pursuant to 28 U.S.C. § 1441 and 28 U.S.C § 1332.

The plaintiff herein demands \$2,000.000.00 in damages.

The plaintiff should have commenced the action in Supreme Court, Rockland County (pursuant to New York Civil Practice Law & Rule § 503(a)) or in the United States District Court for the Southern District of New York.

**Re: Amy Quinones v.
Patrick Forkins and Blanche Forkins**

**January 30, 2008
page 2**

In any event, the plaintiff incorrectly filed it in Supreme Court, Kings County from whence it was removed by the defendants to the United States District Court, Eastern District.

Defendants respectfully request that the action be transferred to the United States District Court, Southern District of New York pursuant to 28 U.S.C. 1391(a)(2) (venue should be in a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred ...)

Kindly advise if your Honor wishes us to appear for a hearing on this issue or whether the court requests a formal motion, or of any other requirements you may have.

Very truly yours,

DOWNING & PECK, P.C.

/s/

JOHN M. DOWNING, JR.

JDJ/de
cc: Mr. Michael David
82 Wall Street
New York, New York 10005

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Amy Quinones,

Plaintiff,

NOTICE

-vs-

Patrick Forkins, et. al.,

Defendant.

CV-07-5260(FB) (VVP)

A pre-motion conference in the captioned case is scheduled for March 28, 2008 at 11:00AM before Judge Frederic Block in courtroom 10C, 10th floor-. Upon receipt of this notice, counsel are to consult and confirm with one another the date and time of this pre-motion conference.

The Court expects the parties to be conversant with the underlying facts and prepared to discuss the legal issues arising therefrom. The parties are reminded that they are obligated to discuss the prospect of settlement and may be required to provide the Court with a report of such discussions. Counsel who are located out of town and would like to participate by telephone shall contact the Court's case manager 48 hours in advance of the conference with counsel's name and telephone number, since the Court will be calling counsel.

Counsel are instructed to review Judge Block's individual practices located on the Court's website at www.nyed.uscourts.gov.

The clerk is directed to mail copies of this notice to all parties.

DATED: Brooklyn, New York
February 14, 2008

MICHAEL J. INNELLI
CASE MANAGER
(718) 613-2425

CIVIL CAUSE FOR Pre Motion Conference

BEFORE BLOCK. J. 3/28/08 TIME: 20 min.

CV-07-5260

TITLE: Amy Quinones -vs- Patrick ForKins et. al.

PLTFFS ATTY: Michael David
☒ present ☐ not present

present not present

present not present

DEFTS ATTY: Alison D. Metzler
☒ present ☐ not present

present not present

present not present

REPORTER NOT REPORTED COURTROOM DEPUTY MJJ

OTHER: _____

☒ CASE CALLED.

Conf. adj'd to _____

All counsel present. Plaintiff's counsel will
submit stipulation as to transfer of venue
to SDNY. Counsel is encouraged to continue
to talk settlement.

ADM:JM
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
AMY QUINONES,

Plaintiff,

-against-

PATRICK FORKINS
and BLANCHE FORKINS,

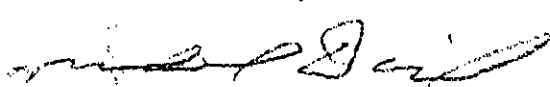
Defendants
-----X

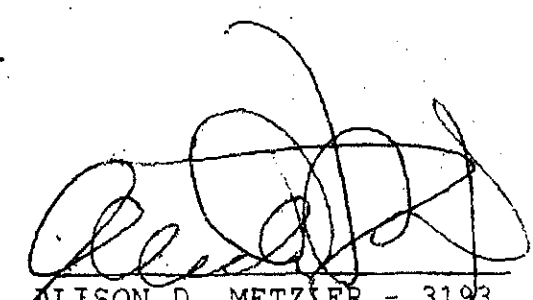
STIPULATION

07-CV-5260

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys of record for all the parties to the above-entitled action, that whereas no party hereto is an infant, incompetent person for whom a committee has been appointed or conservatee and no person nor a party has an interest in the subject matter of the action, the above entitled action be transferred from the United States District Court, Eastern District of New York to the United States District Court for the Southern District of New York located in White Plains, New York.

Dated: New York, New York
March 31, 2008


MICHAEL N. DAVID, ESQ.
Attorney for Plaintiff
82 Wall Street
New York, New York 10005
212-363-1997


ALISON D. METZLER - 3193
DOWNING & PECK, P.C.
Attorneys for Defendants
5 Hanover Square, 20th Fl
212-514-9190

s/Frederic Block

So Ordered

Honorable Frederic Block
5/11/08

**UNITED STATES DISTRICT COURT
Eastern District of New York**

**Robert C. Heinemann
Clerk**

**Terry Vaughn
Chief Deputy of Operations**

**Douglas Palmer
Chief Deputy of Automation**

**Brooklyn Office:
225 Cadman Plaza East
Brooklyn, New York 11201**

**Long Island Office:
100 Federal Plaza
Central Islip, New York 11722**

May 2, 2008

District Clerk
120 Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: Quinones v. Forkins, et al.
1:07-CV-5260(FB)

Dear Clerk:

As per the Order transferring jurisdiction of the above referenced defendant to the District of New York - Southern, the following documents are enclosed:

_____ Certified Copy of Transfer Order/ (Prob 22)

_____ Certified Copy of J&C/Indictment

_____ Certified Docket Sheet

_____ Entire File

_____ Other:_____

_____ Kindly acknowledge receipt of the above-cited documents on the enclosed copy of this letter as well as the new case number issued in your District. Please return said copy to our Brooklyn Office.

Sincerely yours
Robert C. Heinemann, Clerk of Court
By:

Tiffeny Lee

